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405 El Caminito
Post Office Box 1146
Carmel Valley, California 93924

Telephone: 831.659.5300
Telecopier: 801.760.1688

e-mail address:
tcclaw@ix.netcom.com

Carmel Valley Office

2 September 2004

**FACSIMILE TRANSMISSION
SECURITY COVER SHEET**

To: **The United States Patent Office**
Crystal City, Virginia
Group Art Unit 2611
Attention: Examiner Bui

Fax No.: 703.872.9314
Tel No.: 703.305.0095

From: **Thomas N. Giaccherini**
Post Office Box 1146
Carmel Valley, California 93924

Re: **Submission of Third Disclosure Statement
for USSN 09/688,997**

This transmission comprises this transmittal sheet and 13 additional pages.

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PATENT
HMD2000-1-CIPA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicants: Thomas N. Giaccherini, et al.

SEP 02 2004

Examiner: Bui

Serial No.: 09/688,997

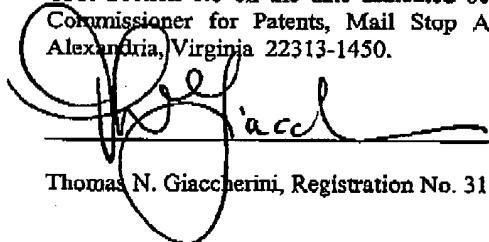
Group Art Unit: 2611

Title: Method for Utilizing
Excess Communications Capacity

Filed: 16 October 2000

CERTIFICATE OF FACSIMILE TRANSMISSION
UNDER 37 C.F.R. SECTION 1.8

The undersigned hereby certifies that this document is being transmitted to the United States Postal Service in accordance with the provisions of 37 CFR Section 1.8 on the date indicated below and is addressed to The Commissioner for Patents, Mail Stop Amendment, P.O. Box 1450, Alexandria, Virginia 22313-1450.



Date 2 Sept 04.

Thomas N. Giaccherini, Registration No. 31,075

THIRD DISCLOSURE STATEMENT

The Commissioner for Patents
Mail Stop Amendment
P.O. Box 1450
Alexandria, Virginia 22313-1450
Sir:

The Applicants submit this Third Disclosure Statement and completed Form PTO/SB/08A for their Pending U.S. Patent Application.

Third Disclosure Statement for U.S. Patent Application entitled
Method for Utilizing Excess Communications Capacity
USSN 09/688,997
HMD2000-1-CIPA
Page 2

DISCLOSURE DOCUMENTS

I. Disclosure History

The Applicants disclosed the following documents in their Second Disclosure Statement:

U.S. Patent No. 5 864 557 issued to Lyons discloses a transport stream encoder, which comprises a plurality of component signal sources.

U.S. Patent No. 5 406 626 issued to Ryan discloses a radio receiver for information dissemination using sub-carrier.

U.S. Patent Application No. 2002/004 2919 is a Pending Continuation-in-Part Patent Application filed by the Assignee of the Present Application, and has a filing date later than the Present Application.

U.S. Patent No. 6 029 045 issued to Picco discloses a System and Method for Inserting Local Content Into Programming Content.

U.S. Patent No. 6 366 761 issued to Montpetit discloses a Priority Based Bandwidth Allocation and Bandwidth-on-Demand in a Low-Earth-Orbit Satellite Data Communication Network.

Third Disclosure Statement for U.S. Patent Application entitled
Method for Utilizing Excess Communications Capacity
USSN 09/688,997
HMD2000-1-CIPA
Page 3

U.S. Patent No. 5 652 795 issued to Dillon discloses a Method and Apparatus for an Adapter Card Providing Conditional Access in a Communication System.

PCT International Patent Application Publication No. WO 97/18651 owned by Hughes Aircraft Company discloses a method and apparatus for an adaptor card for use in a computer to provide conditional access by the computer to incoming data streams.

II. Parallel Prosecution of Related U.S. & European Patent Applications

A. Related US Patent Application USSN 09/579,324

Since the Applicants submitted their Second Disclosure Statement, the U.S. Patent Office has cited additional documents against the Pending Claims of a Related U.S. Patent Application USSN 09/579,324. In a First Office Action dated 2 October 2003 Examiner Anh Vu H. Ly rejected the Pending Claims of USSN 09/579,324 under Section 102 based on Picco 045, which was disclosed by the Applicants in the Second Disclosure Statement for the Present Application. After the Applicants submitted a First Amendment for USSN 09/579,324, Examiner Ly withdrew the Section 102 rejection, and issued a Section 103 rejection based on Picco 045 and Fenwick US2003/0204852. The Examiner also cited White US2003/018587. The Applicants then submitted a Request for Reconsideration on 24 August 2002, traversing the Section 103 rejection. A PTO Form SB/08.A is enclosed which lists the two new documents, Fenwick and White.

Third Disclosure Statement for U.S. Patent Application entitled
Method for Utilizing Excess Communications Capacity

USSN 09/688,997

HMD2000-1-CIPA

Page 4

B. Related European Patent Application No. 01 939 003

The Applicants also submit a copy of the PCT International Search Report dated 22 January 2004 which is the basis for current prosecution before the European Patent Office for EP Application No. 01 939 003. The European Examiner has cited Lyons and Hughes Aircraft, which the Applicants disclosed in their Second Disclosure Statement for the Present Application.

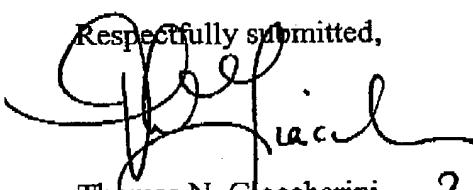
Third Disclosure Statement for U.S. Patent Application entitled
Method for Utilizing Excess Communications Capacity
USSN 09/688,997
HMD2000-1-CIPA
Page 5

CONCLUSION

A completed PTO/SB/08A accompanies this Third Disclosure Statement.

The Applicants submit that none of the documents described above disclose the Invention as claimed in the present Patent Application. The Applicants believe that no fee is required to submit this Third Disclosure Statement.

Respectfully submitted,


Thomas N. Giaccherini,
Applicants' Attorney
Registration No. 31,075

2 Sept 04.

Thomas N. Giaccherini
Post Office Box 1146
Carmel Valley, California 93924
831.659.5300
techlaw@ix.netcom.com

Faxed to the United States Patent Office
on 2 September 2004 with a Rule 8 Certificate of Mailing.

PTO/SB/08a (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

Approved for use through 3/19/2020. GPO 2007-000.

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Substitute for form 1449A/PTO		Complete if Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT		Application Number	09/688 997
		Filing Date	16 OCT 2000
		First Named Inventor	GIACCHERINI
		Art Unit	
		Examiner Name	
(Use as many sheets as necessary)		Attorney Docket Number	HMD2000-1-CIPA
Sheet	of		

U. S. PATENT DOCUMENTS

FOREIGN PATENT DOCUMENTS

FOREIGN PATENT DOCUMENT					
Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Country Code ² Number ³ Kind Code ⁴ (if known)	MM-DD-YYYY		

Examiner Signature		Date Considered	
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 809. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached.

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